

PLANNING COMMISSION MINUTES

April 9, 2003

CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, Vlad Voytilla, and Scott Winter.

Senior Planner John Osterberg, Associate Planner Scott Whyte, Senior Transportation Planner Don Gustafson, Assistant City Attorney Ted Naemura, and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

VISITORS:

Chairman Barnard asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Staff indicated that there were no communications at this time.

NEW BUSINESS:

Chairman Barnard opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **PUBLIC HEARING:**

2
3 A. **CU 2002-0031/LD 2003-0003/TP 2003-0003/FS 2003-0001 –**
4 **ONODY PLANNED UNIT DEVELOPMENT, SUBDIVISION,**
5 **TREE PLAN, AND FLEXIBLE SETBACK**

6 The applicant proposes a Planned Unit Development (PUD) and
7 Subdivision for 14 single-family residential lots with lot sizes
8 varying from approximately 4,590 square feet to approximately
9 6,520 square feet. In addition, the applicant proposes a large
10 tract of land intended for the purpose of open space, wetlands
11 preservation, and water quality detention. The proposed PUD
12 would allow variation to the site development standards of the
13 R-7 zone found in Section 20.05.50 of the Development Code. In
14 addition, the applicant requests Tree Plan 2 approval. A portion
15 of the subject site area contains “Community Trees” which, as
16 defined by the Development Code, are healthy trees of at least
17 ten inches in diameter (DBH) located on developed, partially
18 developed, or undeveloped land. Community Trees are not those
19 trees identified as significant, historic, street, or conditioned
20 trees within a Significant Natural Resource Area. The proposed
21 development plan would remove several Community Trees for
22 site development purposes. The Planning Commission will
23 review the applicant’s Tree Plan 2 together with the overall
24 development plan. The applicant is also requesting Flexible
25 Setback approval to reduce the standard setbacks of the R-7 as
26 described in Section 20.05.40 of the Development Code. The site
27 is generally located north of NW Pioneer Road and west of NW
28 Meadow Drive, and can be specifically identified as Tax Lot 500
29 on Washington County Tax Assessor’s Map 1N1-33CC. The
30 subject property is zoned R-7 Urban Standard Density and is
31 approximately 2.66 acres in size. Within the R-7 zone, single-
32 family detached dwellings are permitted outright and a request
33 for Planned Unit Development is subject to Conditional Use
34 Permit (CU) approval.

35
36 Commissioners Voytilla, Winter, Johansen, Bliss, Pogue indicated that
37 they had visited the site and had no contact with any individual(s)
38 with regard to these applications.

39
40 Chairman Barnard indicated that he had neither visited the site nor
41 had any contact with any individual(s) with regard to these
42 applications.

43

1 Associate Planner Scott Whyte presented the Staff Reports and
2 provided background information with regard to the history of this
3 proposal. He explained that although staff had made the applicant
4 aware of numerous issues and offered them with an opportunity for a
5 continuance to allow them to address these issues prior to making
6 their presentation the applicant had opted to proceed with this
7 scheduled Public Hearing. Observing that staff is recommending
8 denial of the applications for Conditional Use, Land Division, and Tree
9 Preservation Plan, and approval of the Flexible Setback, he discussed
10 the issues and requirements that had not been addressed by the
11 applicant. He pointed out that staff had encouraged the applicant to
12 meet with various representatives from Clean Water Services (CWS)
13 and Tualatin Hills Park and Recreation District (THPRD), expressing
14 staff's opinion that it should be possible to resolve the issues involved.

15
16 Referring to Development Code Section 60.35.15 which describes
17 requirements with regard to common open spaces, Mr. Whyte pointed
18 out that a 20% requirement for open space applies to this application.
19 He mentioned that staff had also requested and not received an
20 evaluation of the Tree Plan, adding that although no Arborist's Report
21 has not been submitted, the arborist for the applicant is available to
22 respond to questions at this time. He clarified that the trees involved
23 are Community Trees, rather than Historic Trees or Significant Trees,
24 emphasizing that the trees are healthy and approximately ten inches
25 in diameter. Concluding, he reiterated that staff is recommending
26 denial of the Conditional Use, Land Division, and Tree Plan, and
27 approval of the Flexible Setback, based upon information that the
28 applicant has made available to staff.

29
30 Commissioner Bliss observed that while the Staff Report for the
31 Flexible Setback agrees with the Development Code, he is totally
32 confused with regard to staff's comments with regard to the various
33 setback requirements for the garage.

34
35 Referring to the Conditional Use Permit Staff Report, specifically a
36 reference on page 23 to the CWS Service Provider Letter,
37 Commissioner Bliss pointed out that this letter had not discussed the
38 on-site piping of the ditch along NW Pioneer Road.

39
40 Mr. Whyte referred to Sheet 9 of the Landscape Plan for Tract B,
41 observing that this includes the entire improvement plan for NW
42 Pioneer Road.

1 Referring to CWS's reference to Section 3.02.3.2.3, Commissioner Bliss
2 pointed out that there is a reference to 3.02.4.B.1.g, which allows
3 encroachment, if consistent with County and City regulations. He
4 mentioned that Washington County is requiring the road to be
5 widened and the City of Beaverton has agreed, expressing his opinion
6 that the applicant is in conformance by piping that ditch. Observing
7 that this had occurred prior to preparation of the Staff Report, he
8 emphasized that this is not applicable criteria for denial.

9
10 Mr. Whyte advised Commissioner Bliss that staff had provided a
11 number of responses to various policies.

12
13 Commissioner Bliss stated that while he understands this, the issue
14 involves mitigation of that space.

15
16 Mr. Whyte emphasized that while staff believes there is a workable
17 solution for the improvements to the street and compliance with CWS,
18 it is also appropriate that the applicant be required to obtain a revised
19 Service Provider Letter acknowledging the revised plan submitted by
20 the applicant. Observing that the applicant has addressed some
21 issues, he pointed out that there are additional issues to be resolved.

22
23 Referring to the Land Division Staff Report, specifically Criteria 1 on
24 page 9, Commissioner Bliss pointed out that staff has indicated that
25 the criteria with regard to the threshold requirements for a
26 Preliminary Subdivision application have been satisfied. He discussed
27 Criteria 5 on page 11, which states that applications and documents
28 related to the request, which will require further City approval, shall
29 be submitted to the City in proper sequence, observing that under the
30 Summary of Findings, staff indicates that the applicant has not
31 demonstrated compliance with Facilities Review Technical Criteria
32 1, 5, 8, and 9. He expressed his opinion that contrary to the
33 information provided in the Staff Report, both Criteria 1 and Criteria 5
34 have been met with the applicant's resubmittal.

35
36 Mr. Whyte observed that while the applicant had met the approval
37 criteria for the Subdivision, it is also necessary to address the
38 Facilities Review criteria in order to obtain staff's support. He
39 reiterated that issues with regard to Tract B still have not been
40 resolved, adding that the floodplain designation would necessitate
41 some additional review. He emphasized that when an applicant
42 resubmits plans and documentation only a few days in advance of the
43 Public Hearing, staff does not have adequate time in which to review
44 and comment on this information.

1 Commissioner Bliss expressed his opinion that staff's expectations of
2 the applicant with regard to this proposal are unreasonable.

3
4 Commissioner Johansen requested further clarification regarding the
5 completeness of the application and specifically whether the applicant
6 had insisted that the application was complete although it had not
7 been deemed complete by staff.

8
9 Mr. Whyte advised Commissioner Johansen that while the applicant
10 had submitted what had been required by staff, staff recommended an
11 arborist's report. He agreed that there is a point at which the
12 application is deemed complete but it is determined that appropriate
13 information with which to make a decision is not available.

14
15 Commissioner Johansen questioned how long the applicant has been
16 aware of and able to address and respond to issues outlined by staff.

17
18 Mr. Whyte informed Commissioner Johansen that he is hesitant to
19 make a guess with regard to the amount of time that the applicant has
20 had to address staff's issues and the issue with regard to the CWS
21 Service Provider Letter, emphasizing that he would prefer to review
22 and obtain this information from the file. Observing that the CWS
23 Service Provider Letter is actually a completeness item, he pointed out
24 that an application would not have been deemed complete without this
25 documentation.

26
27 Referring to paragraph 3 of page 14 of the CUP Staff Report,
28 Commissioner Bliss pointed out that both line 3 and line 8 should be
29 corrected, as follows: "...Section 60.35.30.20.2.c..."

30
31 Observing that the Staff Reports had not been three-hole-punched,
32 Commissioner Maks emphasized that he has not determined why he is
33 here with regard to this application that does not include all of the
34 necessary information. Emphasizing that staff has directed the
35 applicant to provide certain documentation in order to provide
36 necessary information for a decision by the Planning Commission, he
37 pointed out that he is also confused with regard to why staff had
38 recommended a denial without prejudice, adding that he has never
39 seen staff make this recommendation.

40
41 Noting that this issue should be directed to the applicant, who is in
42 control of the 120-day clock and made the decision to proceed, Mr.
43 Whyte pointed out that while it would be improper for staff to
44 recommend denial without prejudice under the previous Development

1 Code, this option is specifically permitted through the new
2 Development Code.

3
4 Commissioner Maks referred to paragraph 2 of page 41 of the Condi-
5 tional Use Staff Report and questioned whether staff is still concerned
6 with a potential for vehicle encroachment to the street, especially for
7 large vehicles that might be parked within an 18.5 foot driveway.

8
9 Mr. Whyte advised Commissioner Maks that while staff is still
10 concerned, there are no actual plans to address this issue.

11
12 Referring to the purpose statement for a Conditional Use Permit,
13 Commissioner Maks pointed out that this is to allow uses on a case-by-
14 case basis which warrant special review, and that because of their size
15 or operation, these uses are subject to Conditional Use regulations
16 because they may but may not necessarily cause significant adverse
17 effects upon the environment and overburden public services such as
18 emergency vehicles.

19
20 On question, Mr. Whyte advised Commissioner Maks that the
21 minimum density for this site is eight lots, while the maximum density
22 has been calculated at 16.7 lots.

23
24 Commissioner Maks referred to page 44 of the Conditional Use Staff
25 Report, and requested the following correction: ~~"POTENTIAL~~
26 **POTENTIAL CONDITIONS OF APPROVAL**".

27
28 Referring to Condition of Approval No. 2, specifically the statement
29 that Planned Unit Development approval shall become null and void if
30 the associated requests for Subdivision, Tree Plan and Flexible
31 Setback are not ultimately approved by the City, Commissioner Maks
32 questioned whether it is necessary for the Tree Plan to be intertwined
33 with the other three applications.

34
35 Assistant City Attorney Ted Naemura indicated that it would be fair to
36 state that the gist of this condition is essentially embodied in the first
37 sentence of that condition which basically addresses the contingency
38 language.

39
40 Commissioner Maks expressed his opinion that this condition is more
41 reasonable without the phrase "null and void".

42
43 Mr. Whyte pointed out that this involves standard language within the
44 Development Code.

1 Observing that this information is already provided within the
2 Development Code, Mr. Naemura suggested the possibility of
3 eliminating the second sentence of Condition of Approval No. 2.

4
5 Mr. Whyte agreed that this information with regard to the duration of
6 approval for various applications is already specified within the
7 Development Code and would still be applicable absent the condition.

8
9 Commissioner Maks referred to the surrounding properties adjacent to
10 the site, observing that these properties have the Washington County
11 zoning designation of R-9, and questioned whether this is equivalent to
12 any City of Beaverton zoning designation.

13
14 Mr. Whyte clarified that while the Washington County R-9 zoning
15 designation provides for nine units per acre, the City of Beaverton R-7
16 zoning designation provides for a minimum lot size.

17
18 Commissioner Maks pointed out that the City of Beaverton R-7 zoning
19 designation provides for five acres per unit, adding that he agrees with
20 staff with regard to the buffer issue. Observing that while
21 Commissioner Bliss had brought up some good points with regard to
22 the CWS issue, he had been involved in this business for a number of
23 years and the Planning Commission is a decision-making body that
24 relies upon the providers such as CWS to submit appropriate
25 information and documentation. He emphasized that the burden of
26 proof is on the applicant, rather than the Planning Commissioners.

27
28 Mr. Naemura clarified that the Comprehensive Plan compares the
29 Washington County R-9 zoning designation to the City of Beaverton
30 R-5 zoning designation.

31
32 Chairman Barnard stated that he would like to follow up on
33 Commissioner Maks' question regarding staff's recommendation for
34 denial without prejudice, and specifically whether Mr. Whyte had
35 intended to indicate that this recommendation had been made simply
36 because it is available within the Development Code.

37
38 Mr. Whyte clarified that staff's recommendation for denial without pre-
39 judice had been made in an effort to allow this applicant to return with
40 this application at any time without waiting for full year, emphasizing
41 that staff believes that the issues are very resolvable and easily
42 satisfied. He pointed out that the decision of whether to grant a denial
43 without prejudice is the responsibility of the Planning Commission.

44

1 Chairman Barnard questioned staff's rationale for determining that
2 the applicant would actually address the concerns expressed by staff if
3 this denial without prejudice is granted.

4
5 Commissioner Maks clarified that a denial without prejudice is not a
6 continuance and does not grant additional time, emphasizing that it
7 would be necessary to submit new applications.

8
9 Commissioner Voytilla referred to page 8 of the Subdivision Staff
10 Report, observing that a request for a Limited Land Use Decision with
11 regard to a Subdivision can not include any significant features such as
12 wetlands.

13
14 Mr. Whyte explained that Subdivisions are typically Limited Land Use
15 Decisions per the Oregon Revised Statutes (ORS).

16
17 Mr. Naemura clarified that a Subdivision is specifically identified as a
18 type of Limited Land Use Decision within the ORS.

19
20 Referring to the last paragraph of page 7 of the Conditional Use Staff
21 Report, Commissioner Voytilla requested clarification with regard to
22 "an unmapped portion of the 100-year floodplain", and specifically
23 questioned by whom this is unmapped.

24
25 Mr. Whyte explained that while he is not certain with regard to the
26 source of this statement, this information would not be found on a
27 Federal Emergency Management Act (FEMA) map.

28
29 Commissioner Voytilla pointed out that it is necessary to locate the
30 100-year floodplain prior to determining where any homes could be
31 located.

32
33 Mr. Whyte noted that the applicant has submitted plans identifying
34 the location of the 100-year floodplain, adding that these plans are
35 available for review, and emphasized that the City Engineer is still
36 reviewing these documents.

37
38 **APPLICANT:**

39
40 **AL JECK**, **MIKE VanLOO**, and **MATT SPRAGUE**, all of whom
41 represent *Alpha Engineering, Inc.* introduced themselves.

42
43 Observing that while he generally addresses the Planning Commission
44 with regard to the projects of other firms, this application actually

1 involves a project of *Alpha Engineering, Inc.*, Mr. Jeck provided a brief
2 overview of the project and discussed the general location of the subject
3 site. He pointed out that approximately the bottom third of the proper-
4 ty involves a wetland area, adding that the development would be
5 located in the top third of the property. He explained that the plan
6 consists of 14 single-family detached homes, noting that the average
7 lot size would be slightly greater than 5,000 square feet in size, with
8 the smallest lot being slightly less than 4,600 square feet in size. He
9 mentioned the wetland buffer and water quality and detention facility,
10 observing that an existing gravel parking area located at the very
11 southern portion of the site is currently utilized by patrons of Pioneer
12 Park and maintenance personnel. Noting that the applicant proposes
13 to restore and enhance the wetland, which is currently in what he de-
14 scribed as a degraded condition, he explained that the primary channel
15 that runs through the wetland has been diverted from its original
16 location and now runs through a ditch along NW Pioneer Road.

17
18 Mr. Jeck explained that the gravel driveway involves an interesting
19 situation, noting that the applicant had contacted Steve Bozak of
20 Tualatin Hills Park & Recreation District (THPRD) to discuss three
21 issues, as follows:

- 22
23 1. The possibility of needing additional land from THPRD for
24 wetland mitigation.
- 25 2. The fact that there is no formal agreement for the utilization of
26 the parking area for the patrons and maintenance of Pioneer
27 Park, which is not actually the property of THPRD.
- 28 3. Dedication of the wetland to THPRD following necessary
29 mitigation and enhancement.

30
31 Mr. Jeck pointed out that there are concerns with regard to the four
32 staff reports, three of which are recommendations for denial, adding
33 that the issues boil down to several issues, as follows:

- 34
35 1. *The Tree Plan.* Staff has indicated that the applicant is not in
36 compliance with Tree Plan Two until the health of the trees has
37 been determined. An Arborist's Report has been completed, as
38 well as a list providing some alternatives for discussion, as
39 requested by staff.
- 40 2. *The Clean Water Service Provider Letter.* The current letter is
41 inconsistent with the plan that has been submitted. Staff has
42 suggested that the applicant meet with both THPRD and CWS,
43 and although the applicant has failed in their attempt to
44 schedule this meeting, Steve Bozak of THPRD has met with

1 Heidi Berg of CWS and reached an agreement with regard to
2 meeting the needs of THPRD within the buffer area. A Letter of
3 Understanding with regard to how this would be accomplished
4 has been provided.

- 5 3. *The 20% Open Space Requirement and Staff's Interpretation*
6 *with Regard to the Buffer Surrounding the Wetland.* He pointed
7 out that this involves a threshold issue with regard to this
8 project, emphasizing that some resolution is necessary prior to
9 proceeding with the proposal.

10
11 Mr. Sprague explained that the buffer issue is very important, adding
12 that the applicant is seeking additional guidance with regard to the
13 interpretation of this key issue which directly affects any PUD. He
14 pointed out that staff is asserting that because a requirement listed in
15 Development Code Section 60.35.15.2 does not specify any particular
16 type of buffer, it is necessary to interpret this as relating to all buffers.
17 He expressed his opinion that this is not the intent of this code section,
18 adding that it is not meant to include wetland buffers as not counting
19 toward the 20% common open space requirement. He pointed out that
20 the land required to be set aside as setbacks or buffers shall not be
21 included in a calculation of required open space. He referred to the
22 purpose statement with regard to the PUD, which states that the
23 developer should accomplish certain things within the PUD, adding
24 that No. 4 requires the developer to retain and protect special
25 topographic, natural, or environmentally sensitive features on the site.

26
27 Chairman Barnard interjected that Mr. Sprague is referring to
28 Development Code Section 60.35.05.4.

29
30 Mr. Sprague continued that the wetlands and wetland buffers are the
31 sensitive and natural areas that are being preserved as a part of this
32 PUD, emphasizing that this fulfills the purpose statement of the PUD
33 and that this is one of the key arguments against the interpretation
34 that staff is making with regard to the buffer described in
35 Development Code Section 60.35.15.2. He pointed out that if THPRD
36 is successful in working out a situation with CWS, this would also
37 clearly indicate that the buffers currently surrounding that wetland
38 area should be considered common open space.

39
40 Mr. Jeck pointed out that the arborist's report is not a completeness
41 issue, adding that while this is typically provided very early in the
42 development process, the issue had not been mentioned until just prior
43 to the Facilities Review Meeting. He discussed the proposed tree

1 preservation, observing that nothing would be accomplished by
2 preserving three particular trees that are not in good health.

3

4 Mr. Sprague discussed Commissioner Maks' issue with regard to a
5 PUD rather than a standard Subdivision, adding that due to the shape
6 of the property, there would be one dead end street coming in with
7 standard size lots, in addition to three long lots in front of NW
8 Meadows Drive. He explained that the houses did not relate to one
9 another, adding that the applicant had provided a private street design
10 with a loop road, including a neo-traditional house style. He pointed
11 out that this provides a view corridor down the street into the open
12 space area, adding that this would hopefully be under the ownership of
13 THPRD. He expressed his opinion that this is a much better way to
14 provide a livable neighborhood with homes and streets that relate to
15 each other very well as opposed to a standard Subdivision with houses
16 facing different streets that did not relate to one another at all.

17

18 Chairman Barnard requested clarification with regard to whether
19 interpretations of Code are the responsibility of the Planning Director,
20 rather than this decision-making body.

21

22 Mr. Naemura explained that while the Planning Director is obligated
23 to deliver initial Code interpretations, and various expressions of an
24 interpretation can be provided at different times, a final interpretation
25 would come from the City Council in most cases.

26

27 Commissioner Bliss stated that he would like to address the issue with
28 regard to open space, observing that he had been asked a generic
29 question by Mr. Sprague several weeks ago prior to a conversation
30 with Development Services Manager Steven Sparks. Observing that
31 he had requested an interpretation of wetland buffers, he emphasized
32 that Mr. Sparks had indicated that wetland buffers are included as
33 consideration of open space.

34

35 Commissioner Maks stated that while he understands Mr. Sprague's
36 argument with regard to the open space issue, the City of Beaverton
37 has no mandated buffer for zoning districts per usage. He expressed
38 his opinion that it becomes necessary to determine what is unique
39 about a proposal, in essence it is possible to build a property as a sub-
40 division, although it might not be possible to create a neo-traditional
41 subdivision and it is not possible to build within the buffer. He pointed
42 out that this is no longer unique in the City of Beaverton, adding that
43 the Comprehensive Plan specifies that we are supposed to provide
44 housing of all varieties. Expressing his opinion that the applicant is

1 75% of the way there, he pointed out that he sees nothing unique or
2 special with regard to this proposal, beyond enhancing the natural
3 areas. He questioned whether the applicant has available at this time
4 a document indicating which trees would and would not be preserved.
5

6 Mr. Jeck indicated that he is able to indicate which trees would and
7 would not be preserved with the aid of the Arborist's Report and a map
8 of the trees.
9

10 Commissioner Maks advised Mr. Jeck that a decision needs to be based
11 upon available information, emphasizing that this documentation has
12 not yet been submitted.
13

14 Commissioner Johansen mentioned that some coordination between
15 THPRD and CWS is necessary and questioned whether the applicant
16 has the ability to provide appropriate documentation with regard to
17 this issue.
18

19 Observing that no formal agreement is available at this time, Mr. Jeck
20 advised Commissioner Johansen that this issue had only been worked
21 out within the past four or five days and that the applicant has
22 obtained a letter from THPRD to CWS.
23

24 Commissioner Maks requested further information with regard to the
25 18.5-foot driveway issue.
26

27 Mr. Jeck indicated that the length of the driveway could be increased.
28

29 Referring to examples of setbacks and buffers, Mr. Sprague mentioned
30 Development Code Section 20.20.60.8.1.g, which states that the
31 parking lot shall be placed behind buildings or behind landscaped
32 buffers with a minimum depth of eight feet from adjacent streets or
33 pedestrian ways. He referred to Development Code Section
34 20.20.60.8.3, which states that off street parking lots shall be located to
35 the rear of buildings with no portion of the parking...
36

37 Commissioner Maks advised Mr. Sprague that he is currently
38 referencing Design Review criteria.
39

40 Mr. Sprague explained that one potential scenario involved a loop
41 road, adding that even with the open space, adding that the situation
42 was not attractive and included a dead end street, rather than a
43 continuing street scene. He pointed out that the proposed subdivision

1 provides a private street with a sidewalk on one side and includes a
2 much better streetscape with a view corridor.

3
4 Commissioner Maks reminded Mr. Sprague that although he had
5 provided excellent testimony, the burden of proof to demonstrate that
6 applicable criteria have been met is upon the applicant. He pointed
7 out that he has seen nothing to indicate that this application is unique
8 and therefore appropriate for a PUD, rather than a Subdivision.

9
10 Mr. Jeck submitted copies of communications received today, as
11 follows:

- 12
13 1. REVISED Service Provider Letter from *Clean Water Services*,
14 dated April 8, 2003.
15 2. Arborist Report from Walter H. Knapp, dated April 9, 2003.
16 3. Mitigation information with regard to the Pioneer Park
17 Maintenance Access Drive from *Tualatin Hills Park &*
18 *Recreation District*, dated January 2, 2003.

19
20 Commissioner Pogue pointed out that the Planning Commissioners
21 would have had an opportunity to review these documents if they had
22 been provided prior to the meeting.

23
24 8:53 p.m. through 9:01 p.m. – The Planning Commission recessed in
25 order to consult with staff with regard to the recently-submitted
26 information.

27
28 Chairman Barnard pointed out that staff does not feel that there has
29 been sufficient time to adequately review the documents submitted by
30 Mr. Jeck and questioned how members of the Planning Commission
31 feels about these issues.

32
33 Emphasizing that he agrees with staff, Commissioner Voytilla
34 observed that he would like more time, to review the Arborist's Report,
35 adding that there are references to trees for which no map has been
36 provided. He pointed out that the letter from THPRD does not address
37 all concerns, noting that it is incomplete and in conflict with CWS's
38 Condition No. 11 with regard to the gravel road.

39
40 Commissioner Bliss stated that while he agrees with regard to the tree
41 issue and that the issue with THPRD is questionable, except for
42 Condition No. 18 of the original letter being removed and the
43 statement with regard to Item 5, he sees no difference with the CWS
44 issue. He pointed out that Heidi Berg was aware that a pipe was being

1 produced, expressing his opinion that the applicant has complied with
2 CWS conditions. He noted that removal of the driveway involves a
3 construction detail, adding that this issue involves a Preliminary Plat,
4 rather than with the final improvement plans. He explained that as a
5 Condition of Approval, staff would review that plan upon submittal of
6 the final subdivision plans. He stated that it is premature to indicate
7 that they have not complied because they have not removed the
8 parking lot, which is a condition pertaining to the subdivision, if and
9 when approved.

10
11 Commissioner Maks emphasized that the applicant controls the clock,
12 adding that while a portion of the requested evidence is being provided
13 at this time, unless the applicant requests a continuance, the Planning
14 Commission is in the position of making a decision for approval or
15 denial based upon inadequate documentation.

16
17 Assuring the Planning Commissioners that the applicant had attempt-
18 ed to provide all requested information prior to the hearing, Mr.
19 Sprague requested a continuance in order to provide an opportunity to
20 respond appropriately to issues and to create a better project.

21
22 Chairman Barnard advised Mr. Sprague that this continuance would
23 have to be set for a date certain at least 14 days in the future.

24
25 Mr. Sprague informed Chairman Barnard that the applicant would
26 require a minimum of 30 days to prepare for the continuance and
27 would be willing to sign a waiver of the 120-day deadline.

28
29 Commissioner Maks clarified that while he is appreciative of the
30 applicant's situation and request for a continuance, he would like to
31 determine if any member of the public would like to testify with regard
32 to this proposal.

33
34 Chairman Barnard questioned whether Rachel Nettleton would like to
35 testify tonight or at the continuance, and was advised that she would
36 be out of town next month and prefers to testify at this time.

37
38 Following a brief discussion, it was determined that an acceptable date
39 for the continuance would be May 21, 2003.

40
41 Mr. Sprague stated that the applicant would appreciate public
42 testimony at this time, adding that it would provide assistance in
43 preparing to address issues.
44

1 **PUBLIC TESTIMONY:**

2
3 **RACHEL NETTLETON**, Chairman of the Five Oaks/Triple Creek
4 NAC, mentioned that she is speaking on behalf of Paula Thrush, who
5 had expressed concern with regard to locating this development near
6 the wetland, adding that Ms. Thrush is in the hospital and unable to
7 attend this hearing.

8
9 Mr. Barnard advised Ms. Nettleton that the Commission would hear
10 her testimony and ask appropriate questions based upon this testi-
11 mony, adding that her specific questions should be directed to staff.

12
13 Ms. Nettleton described her concerns, emphasizing that her main
14 concern involves the environment, and pointed out that the current
15 water level is eight inches below the surface of the ground. She
16 expressed her opinion that it is not feasible to construct houses within
17 the floodplain area, adding that Ms. Thrush had expressed concern
18 with creating lots smaller than those represented in the neighborhood
19 to the south of the proposed development.

20
21 Commissioner Maks informed Ms. Nettleton that it had been
22 environmental concerns that had prompted many of the issues raised
23 by the Commission, adding that CWS and several other agencies would
24 address these issues. He pointed out that although the adjacent lot
25 sizes are larger in size, the area is surrounded by the Washington
26 County R-9 zoning designation, which is an equivalent to these
27 proposed lot sizes, adding that these lots would be only slightly smaller
28 in size.

29
30 Commissioner Pogue requested clarification whether the Planning
31 Commission should establish some expectations with regard to what is
32 expected from the applicant prior to the continuance.

33
34 Commissioner Winter **MOVED** to **CONTINUE** CU 2002-0031/LD 2003-
35 0003/TP 2003-0003/FS 2003-0001 – Onody Planned Unit Development,
36 Subdivision, Tree Plan, and Flexible Setback to a date certain of May
37 21, 2003.

38
39 Commissioner Johansen observed that this proposal involves a
40 sophisticated applicant who understands the expectations and has had
41 every opportunity to submit appropriate documentation, some of which
42 was provided late this evening. He expressed his opinion that the
43 applicant has displayed disrespect of the process by appearing so
44 poorly prepared, adding that it is unrealistic to expect this requested

1 continuance. He pointed out that he has sufficient information to
2 make a decision at this time, noting that it is time for somebody to
3 show some respect for the time and efforts of the Planning
4 Commissioners. Concluding, he stated that it is foolish to establish
5 another poor precedent because the applicant has failed to provide
6 requested information, adding that he does not support a motion for a
7 continuance.

8

9 Commissioner Pogue agreed with Commissioner Johansen, noting that
10 based upon their prior performance, he has no confidence in applicant's
11 ability to appropriately address necessary issues.

12

13 Emphasizing that he has been in this business for 30 years, Commis-
14 sioner Bliss pointed out that he has witnessed an evolution of what is
15 required with regard to submitting an application. Observing that he
16 agrees that several items are lacking, particularly with regard to the
17 Tree Plan and the Arborist's Report, he stated that there had been con-
18 fusion with regard to the THPRD issue. He mentioned that the other
19 issue had been addressed several weeks ago, noting that sufficient
20 information had been provided for the purpose of staff review prior to
21 approving a Preliminary Plat. He pointed out that this is a Preli-
22 minary Plat, not a Final Plat, adding that the current detail requires
23 such a great amount of detail that it is no longer a Preliminary Plat.
24 Observing that he is confident that the applicant would deliver
25 necessary documentation, he expressed his support of a continuance.

26

27 Commissioner Winter pointed out that his motion needs to be restated.

28

29 Chairman Barnard stated that while he understands Commissioner
30 Johansen's views and he sometimes wonders if applicants are aware
31 that the Planning Commission is a volunteer body that spends hours of
32 personal time. He pointed out that by utilizing this body as a sounding
33 board, the applicant is actually forcing the Planning Commission to
34 hear and consider this proposal multiple times, adding that it is
35 extremely frustrating when an applicant is not fully prepared.

36

37 Commissioner Maks stated that he also disagrees with Bliss also,
38 adding that he understands access issues and that this is a PUD,
39 rather than a simple plat, and involves a Conditional Use which
40 warrants special review. Observing that he understands
41 Commissioner Johansen's point of view and agrees with Commissioner
42 Pogue, he pointed out that he has only seen one of these applicant's
43 representatives once or twice in the past ten years and does not know
44 how familiar they are with what to expect. Emphasizing that he

1 wishes that the Commission had not heard this proposal this evening,
2 he expressed his opinion that in ten years, this is the second worst
3 application he has seen with regard to missing pieces. Concluding, he
4 pointed out that the applicant is close to an appropriate application
5 and that the goal is to approve quality development, adding that he
6 would like to see what the applicant provides and would support the
7 requested continuance.

8
9 Commissioner Johansen stated that he disagrees with Commissioner
10 Maks, emphasizing that the role of the Planning Commission is not to
11 approve, but to measure against applicable criteria prior to making a
12 decision.

13
14 Commissioner Maks commented that the last time he had checked,
15 every application had involved development.

16
17 Commissioner Johansen reiterated that it is necessary for the
18 applicant to demonstrate a respect for the processes.

19
20 Commissioner Voytilla expressed his agreement with the statements of
21 his fellow Commissioners, adding that they are all valid points and
22 that Commissioner Johansen had accurately expressed how all of the
23 Commissioners feel. Observing that this application is not what he
24 considers professional, he stated that he supports the applicant's
25 request for a continuance.

26
27 Commissioner Winter **MOVED** and Commissioner Voytilla
28 **SECONDED** a motion to **CONTINUE** CU 2002-0031/LD 2003-0003/TP
29 2003-0003/FS 2003-0001 – Onody Planned Unit Development,
30 Subdivision, Tree Plan, and Flexible Setback to a date certain of May
31 21, 2003, noting that the applicant has agreed in writing to suspend
32 the 120 day rule for the appropriate period of time.

33
34 Motion **CARRIED**, by the following roll call vote:

35
36 **AYES:** Winter, Voytilla, Bliss, and Maks.

37 **NAYS:** Johansen, Pogue, and Barnard.

38 **ABSTAIN:** None.

39 **ABSENT:** None.

40
41 **MISCELLANEOUS BUSINESS:**

42
43 The meeting adjourned at 9:37 p.m.